

**UNITED STATES OF AMERICA  
BEFORE THE NATIONAL LABOR RELATIONS BOARD  
DIVISION OF JUDGES  
NEW YORK BRANCH OFFICE**

**NEW YORK PAVING, INC.**

**and**

**Case No. 29-CA-254799**

**CONSTRUCTION COUNCIL LOCAL 175,  
UTILITY WORKERS UNION OF AMERICA,  
AFL-CIO**

**ORDER POSTPONING HEARING PENDING BOARD RULING  
ON REQUEST FOR SPECIAL PERMISSION TO APPEAL**

The Complaint and Notice of Hearing in this matter, issued on April 20, 2020, alleges that New York Paving, Inc. (NY Paving or Respondent) violated Sections 8(a)(1), (3) and (5) of the Act in connection with its discontinuing asphalt operations and laying off asphalt paving employees on or about December 20, 2019. On May 8, 2020, NY Paving filed an Answer denying the Complaint's material allegations.

On July 20, 2020, the Regional Director, Region 29, issued an Order postponing the hearing until September 1, 2020, and stating that the hearing would be conducted by videoconference. On July 27, 2020, I issued an Order granting a Motion filed by Counsel for the General Counsel (General Counsel) to conduct the hearing by videoconference. In an e-mail dated August 7, 2020, NY Paving stated that it would be filing a Request for Special Permission to Appeal my July 27, 2020 Order, and asked that the hearing be postponed pending the Board's ruling on the Request for Special Permission to Appeal. On August 10, 2020, NY Paving filed its Request for Special Permission to Appeal my July 27, 2020 Order.

The parties agree that the hearing in this case should be postponed pending the Board's decision on NY Paving's Request for Special Permission to Appeal my July 27, 2020 order. I concur, as the Request for Special Permission to Appeal raises novel issues which affect the conduct of the entire hearing, and not simply a single discrete procedural matter. However, NY Paving also asks that I order that any hearing will not begin until three weeks after the Board issues its decision; General Counsel and Charging Party oppose this request. In my judgment such an order is unnecessary. The parties have now agreed to adjourn the hearing until the week of October 12, 2020, so that NY Paving's Request for Special Permission to Appeal may well be decided at a time that allows an adequate period for hearing preparation. But in the event that any party believes an additional adjournment is necessary in order to prepare for the hearing after the Board issues its decision, they may bring the issue to my attention at that time.

For the foregoing reasons, further proceedings in this case are hereby postponed until the Board rules on NY Paving's Request for Special Permission to Appeal my July 27, 2020 Order. However, NY Paving's request for an order stating that the hearing will not begin until three weeks after the Board issues a decision on its Request for Special Permission to Appeal is denied.

Dated: New York, New York  
August 18, 2020

A handwritten signature in cursive script, reading "Lauren Esposito".

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Lauren Esposito  
Administrative Law Judge